



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG-2012-0123]

RIN 1625-AA08, 1625-AA00

Special Local Regulations and Safety Zone; War of 1812  
Bicentennial Commemorations, Chesapeake Bay and Port of  
Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing temporary special local regulations and a safety zone in the Chesapeake Bay and Port of Baltimore, Maryland for War of 1812 Bicentennial Commemorations activities. These actions are necessary to provide for the safety of life on navigable waters before, during, and after War of 1812 Bicentennial Commemorations events being planned for Baltimore, Maryland. These actions will restrict vessel traffic in portions of the Inner Harbor, the Northwest Harbor, the Patapsco River, and the Chesapeake Bay.

DATES: This rule is effective from June 12, 2012 through June 20, 2012.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2012-0123 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0123 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410-576-2674, e-mail [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 15, 2012, we published a notice of proposed rulemaking (NPRM) entitled "War of 1812 Bicentennial Commemorations, Chesapeake Bay and Port of Baltimore, MD" in the Federal Register (77 FR 15323). We received one comment on the proposed rule. No public meeting was requested, and

none was held.

#### Background and Purpose

The U.S. Department of the Navy is sponsoring War of 1812 Bicentennial Commemorations in the Chesapeake Bay and Port of Baltimore, Maryland. Planned events include the scheduled arrival of U.S. and foreign naval vessels, public vessels, tall ships and other vessels beginning on June 12, 2012 and the scheduled departure of those vessels ending on June 20, 2012. The Coast Guard anticipates a large spectator fleet for these events. Operators should expect significant vessel congestion along the arrival and departure routes. The purpose of these regulations is to promote maritime safety and protect participants and the boating public in the Port of Baltimore and the waters of the Chesapeake Bay immediately prior to, during, and after the scheduled events. The regulations will provide for clear passage of participating vessels, a safety buffer around the participating vessels while they are in transit for the benefit of participants and spectators. The regulations will impact the movement of all vessels operating in specified waters of the Chesapeake Bay, Patapsco River, Northwest Harbor and the Inner Harbor.

It may be necessary for the Coast Guard to establish additional safety or security zones in addition to these regulations to safeguard dignitaries and certain vessels

participating in the event. If the Coast Guard deems it necessary to establish such zones at a later date, the details of those zones will be announced separately via the Federal Register, Local Notice to Mariners, Safety Voice Broadcasts, and any other means available.

With the arrival of War of 1812 Bicentennial Commemorations participants and spectator vessels in the Port of Baltimore for this event, it will be necessary to curtail normal port operations to some extent. The Coast Guard will attempt to minimize interference while still ensuring the safety of life on the navigable waters immediately before, during, and after the scheduled events.

#### Discussion of Comments and Changes

The Coast Guard received one comment in response to the NPRM. No public meeting was requested and none was held. What follows is a review of, and the Coast Guard's response to, the issue that was presented by the commenter concerning the proposed regulations.

The commenter stated that while the War of 1812 Bicentennial Celebration will be an important event that normally calls for an increased safety of participating vessels, smaller shipping operations will be unable to afford unforeseen schedule changes, dock workers and their communities will suffer from a lack of labor, and ships unable to access Port of Baltimore terminals may choose to

go elsewhere that week and maybe for the foreseeable future; allowing the shipping industry alone to operate as they see fit during the event without the proposed regulations, and providing additional law enforcement patrol resources to monitor the situation, would not cause business losses in the private sector.

We disagree. We feel that as a result of the extensive planning and notice provided to the public, which began in 2009 and will continue through the event, the Port of Baltimore stakeholders and waterway users will not be substantially adversely affected during the event as suggested by the commenter. The highly-publicized, international event is expected to create a large spectator fleet and attract many other waterway users to the area.

#### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under

that Order. The primary impact of these regulations will be on vessels wishing to transit the affected waterways during the War of 1812 Bicentennial Commemorations vessels arrival beginning on June 12, 2012 and their departure ending on June 20, 2012. Although these regulations prevent traffic from transiting a portion of the Inner Harbor, Northwest Harbor, Patapsco River and the Chesapeake Bay during these events, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area. Moreover, the magnitude of the event itself will severely hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a

substantial number of small entities. This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate or anchor in portions of the Inner Harbor, the Northwest Harbor and Patapsco River, and the Chesapeake Bay, in Maryland. The regulations would not have a significant impact on a substantial number of small entities for the following reasons: the restrictions are limited in duration, affect only limited areas, and will be well publicized to allow mariners to make alternative plans for transiting the affected areas. Moreover, the magnitude of the event itself will severely hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the

Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate,



or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on

the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling

procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction. This rule involves implementation of regulations within 33 CFR Part 100 applicable to organized marine events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, canoe and sail board racing. An environmental analysis checklist and a categorical exclusion determination

are available in the docket where indicated under ADDRESSES.

Additionally, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule also involves establishing a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

#### List of Subjects

##### 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

##### 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 and 165 as follows:

#### PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.35T05-0123 to read as follows:

§ 100.35T05-0123 Special Local Regulations for Marine Events; War of 1812 Bicentennial Commemorations, Chesapeake Bay and Port of Baltimore, MD.

(a) Definitions. (1) "Captain of the Port Baltimore" means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to act on his behalf.

(2) "Official Patrol Vessel" includes all U. S. Coast Guard, public, state, county or local law enforcement vessels assigned and/or approved by Commander, Coast Guard Sector Baltimore.

(3) "War of 1812 Bicentennial Commemorations Vessel" includes all vessels participating in War of 1812 Bicentennial Commemorations activities under the auspices of the U.S. Department of Homeland Security Application for Marine Event submitted for the War of 1812 Bicentennial Commemorations activities in Baltimore, Maryland and approved by the Captain of the Port Baltimore.

(4) "War of 1812 Bicentennial Commemorations arrival" is the movement of War of 1812 Bicentennial Commemorations vessels in orderly succession as they navigate designated routes in the Chesapeake Bay in Maryland and in the Port of Baltimore while inbound to Baltimore, Maryland on June 13, 2012.

(5) "War of 1812 Bicentennial Commemorations departure" is the movement of War of 1812 Bicentennial Commemorations vessels in orderly succession as they navigate designated

routes in the Port of Baltimore and in the Chesapeake Bay in Maryland while outbound from Baltimore, Maryland on June 19, 2012.

(b) Regulated areas. The following regulated areas are established as special local regulations during the War of 1812 Bicentennial Commemorations in Baltimore, Maryland. All coordinates reference Datum NAD 1983.

(1) "Arrival Area". All waters of the Patapsco River, Northwest Harbor and Inner Harbor enclosed by:

Latitude	Longitude
39°15'41" N	076°34'48" W, to
39°15'05" N	076°34'44" W, and
39°14'08" N	076°33'38" W, to
39°12'46" N	076°32'03" W, to
39°10' 25" N	076°31'01" W, to
39°12'06" N	076°29'43" W, to
39°13'22" N	076°31'16" W, to
39°15'40" N	076°33'34" W.

(2) "Departure Area". All waters of the Patapsco River, Northwest Harbor and Inner Harbor enclosed by:

Latitude	Longitude
39°15'41" N	076°34'48" W, to
39°15'05" N	076°34'44" W, and
39°14'08" N	076°33'38" W, to
39°12'46" N	076°32'03" W, to
39°10' 25" N	076°31'01" W, to
39°12'06" N	076°29'43" W, to
39°13'22" N	076°31'16" W, to
39°15'40" N	076°33'34" W.

(c) Special Local Regulations. (1) All persons and vessels within the regulated areas must operate in strict

conformance with any directions given by the Captain of the Port Baltimore and leave the regulated areas immediately if the Captain of the Port Baltimore so orders.

(2) Unless otherwise directed by the Captain of the Port Baltimore, all vessels within the regulated areas shall be operated at the minimum speed necessary to maintain safe course.

(3) Persons desiring to transit the regulated area must first obtain authorization from the Captain of the Port Baltimore. To seek permission to transit the regulated areas, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). All Coast Guard vessels enforcing these regulated areas can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz).

(4) The Captain of the Port Baltimore will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and will notify the public of any changes in the status of the regulated areas by a Marine Safety Radio Broadcast on VHF-FM marine band radio, channel 22A (157.1 MHz).

(d) Enforcement periods -- (1) Arrival Area. Paragraph (b)(1) of this section will be enforced from 9 a.m. until 9 p.m. on June 13, 2012.

(2) Departure Area. Paragraph (b) (2) of this section will be enforced from 6:30 a.m. until 3 p.m. on June 19, 2012.

PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

3. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

4. Add § 165.T05-0123 to read as follows:

§ 165.T05-0123 Safety Zone; War of 1812 Bicentennial Commemorations, Chesapeake Bay and Port of Baltimore, MD.

(a) Definitions. (1) "Captain of the Port Baltimore" means the Commander, U.S. Coast Guard Sector Baltimore, Maryland.

(2) "Designated Representative" means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (b) of this section.

(3) "War of 1812 Bicentennial Commemorations Vessels" includes all vessels participating in War of 1812 Bicentennial Commemorations activities under the auspices of the U.S. Department of Homeland Security Application for Marine Event submitted for the War of 1812 Bicentennial



Commemorations activities in Baltimore, Maryland and approved by the Captain of the Port Baltimore.

(b) Regulated areas. The following locations are a moving safety zone:

(1) All waters within 500 yards of any War of 1812 Bicentennial Commemorations vessel which is greater than 100 feet in length overall, while operating in the navigable waters of the Chesapeake Bay or its tributaries, north of the Maryland - Virginia border and south of latitude 39°35'00" N.

(2) All waters within 100 yards of any War of 1812 Bicentennial Commemorations vessel which is greater than 100 feet in length overall, while operating in the navigable waters of the Chesapeake Bay or its tributaries, north of the Maryland - Virginia border and south of latitude 39°35'00" N.

(c) Regulations. The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05-0123.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) The Navigation Rules shall apply while within the safety zone described in paragraph (b) of this section.

(3) Persons and vessels intending to transit the area of the safety zone described in paragraph (b) (1) of this

section shall operate at the minimum speed necessary to maintain a safe course, unless required to maintain speed by the Navigation Rules, and shall proceed as directed by the Captain of the Port Baltimore or his designated representative.

(4) Entry into or remaining in the area of the safety zone described in paragraph (b)(2) of this section is prohibited unless authorized by the Captain of the Port Baltimore or his designated representative. Persons desiring to transit the area of the safety zone described in paragraph (b)(2) of this section must first request authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing lights, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed at the minimum

speed necessary to maintain a safe course while within the zone, unless required to maintain speed by the Navigation Rules.

(5) The Captain of the Port Baltimore will notify the public of any changes in the status of this zone by a Marine Safety Radio Broadcast on Marine Band Radio VHF-FM channel 22A (157.1 MHZ).

(6) The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(d) Effective dates: This section is effective from June 12, 2012 through June 20, 2012.

(e) Enforcement periods: This section will be enforced from 6 p.m. on June 12, 2012 until 9 p.m. on June 13, 2012, and from 6 a.m. on June 19, 2012 until 5 a.m. on June 20, 2012.

Dated: April 24, 2012

Brian W. Roche  
Commander, U.S. Coast Guard  
Acting Captain of the Port Baltimore.

[FR Doc. 2012-11497 Filed 05/10/2012 at 8:45 am; Publication Date: 05/11/2012]